

Condensed Transcript (with Word Index) of Murphy, Harold K. (Vol. 01) - 11/13/2007  
 Thursday, December 27, 2007, 10:08:54 AM

**Murphy**

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1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE MIDDLE DISTRICT OF ALABAMA  
 3 NORTHERN DIVISION  
 4  
 5 HAROLD KELLY MURPHY,  
 6 Plaintiff,  
 7  
 8 vs. Case No.: 2:06-CV-618-MEF  
 9  
 10 SOUTHERN ENERGY HOMES, INC., et al.,  
 11 Defendants.  
 12  
 13 \* \* \* \* \*  
 14 DEPOSITION OF HAROLD KELLY MURPHY,  
 15 taken pursuant to notice and  
 16 stipulation on behalf of the  
 17 Defendants, at Beasley, Allen, 272  
 18 Commerce Street, Montgomery, Alabama,  
 19 before Bridgette Mitchell, Shorthand  
 20 Reporter and Notary Public in and for  
 21 the State of Alabama at Large, on  
 22 November 13, 2007, commencing at  
 23 9:40 a.m.

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1 STIPULATIONS  
 2 It is hereby stipulated and  
 3 agreed by and between counsel  
 4 representing the parties that the  
 5 deposition of HAROLD KELLY MURPHY is  
 6 taken pursuant to notice and  
 7 stipulation on behalf of the  
 8 Defendants; that all formalities with  
 9 respect to procedural requirements are  
 10 waived; that said deposition may be  
 11 taken before Bridgette Mitchell,  
 12 Shorthand Reporter and Notary Public in  
 13 and for the State of Alabama at Large,  
 14 without the formality of a commission;  
 15 that objections to questions, other  
 16 than objections as to the form of the  
 17 questions, need not be made at this  
 18 time, but may be reserved for a ruling  
 19 at such time as the deposition may be  
 20 offered in evidence or used for any  
 21 other purpose as provided for by the  
 22 Civil Rules of Procedure for the State  
 23 of Alabama.

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1 APPEARANCES  
 2  
 3  
 4 FOR THE PLAINTIFF:  
 5 C. Lance Gould, Esquire  
 6 BEASLEY, ALLEN, CROW, METHVIN,  
 7 PORTIS & MILES, P.C.  
 8 218 Commerce Street  
 9 Montgomery, Alabama 36104  
 10  
 11 FOR THE DEFENDANTS:  
 12 W. Scott Simpson, Esquire  
 13 RITCHIE & SIMPSON, P.C.  
 14 3288 Morgan Drive  
 15 Birmingham, Alabama 35216  
 16  
 17  
 18 ALSO PRESENT:  
 19 David Tompos  
 20 Jim Bauer  
 21  
 22  
 23

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1 It is further stipulated and  
 2 agreed by and between counsel  
 3 representing the parties in this case  
 4 that the filing of the deposition of  
 5 HAROLD KELLY MURPHY is hereby waived  
 6 and that said deposition may be  
 7 introduced at the trial of this case or  
 8 used in any other manner by either  
 9 party hereto provided for by the  
 10 Statute, regardless of the waiving of  
 11 the filing of same.

12 It is further stipulated and  
 13 agreed by and between the parties  
 14 hereto and the witness that the  
 15 signature of the witness to this  
 16 deposition is hereby waived.

17  
 18 INDEX

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CONFIDENTIAL

EXHIBIT

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1 was bulky, right down through there  
 2 also, and that's right on that back  
 3 side.  
 4 Q. What's your theory? What's going on  
 5 here? Is there water in these walls?  
 6 A. I mean, I have only seen them when  
 7 y'all opened them up and one of their  
 8 guys opened them up and there was mold  
 9 down the back side. And it had been  
 10 wet because you can see stain damage on  
 11 the back side. And your guys said  
 12 there was no -- no water leaks. So if  
 13 there's no water leaks up there --  
 14 Q. Who said that?  
 15 A. The Southern Energy guy, when he came.  
 16 And then when your experts and my  
 17 experts, or their experts, were there,  
 18 there was no -- was no roof leaks.  
 19 Q. I told everyone not to talk to you.  
 20 We're not supposed to do that. Did  
 21 somebody break the rules?  
 22 A. Yeah.  
 23 Q. Who talked to you?

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1 faucet and the kitchen faucet, all of  
 2 them -- either the faucet broke or the  
 3 pipe broke.  
 4 Q. All right. Let's start with the  
 5 bathroom. First of all, let me back  
 6 up. You said things weren't going  
 7 right and you pointed to Exhibit 1?  
 8 A. Yeah. Well, just --  
 9 Q. I'm trying to understand. It looks  
 10 like you were happy when they called  
 11 you.  
 12 A. I was happy only with the stuff he had  
 13 already done. The roof and the molding  
 14 and all, I was not happy; the outside  
 15 stuff.  
 16 Q. Did you ever send anything to Southern  
 17 Energy indicating you weren't happy or  
 18 were all your complaints with Jan?  
 19 A. I called them. They -- Corky's got  
 20 frustrated with me and they gave me the  
 21 number to talk directly. I can't  
 22 remember who I talked to. But I was  
 23 talking to Rick or somebody up there

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1 A. I can't remember which guy it was. One  
 2 of them guys. We showed him pictures  
 3 and all. We just looked -- and then --  
 4 let me think. There was another guy  
 5 there, too. The guy with the camera  
 6 was there, too. He was --  
 7 Q. The older guy?  
 8 A. He was there when we talked about it.  
 9 Q. We have a picture, and I didn't bring  
 10 it with me, but there's a stain line  
 11 that runs down this sink right in  
 12 between the tub there like the sink  
 13 overflowed and kind of flooded there.  
 14 Do you remember that happening in your  
 15 bathroom?  
 16 A. No, sir. But I will tell you we had --  
 17 in our warranty, after -- right --  
 18 after all this happened, we just got  
 19 frustrated because it wasn't going  
 20 right. And I done told Jan two or  
 21 three times about it. I had to replace  
 22 that sink right there. The pipe on it,  
 23 it blowed out. That faucet, that

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1 about everything.  
 2 Q. This was after your warranty expired or  
 3 before?  
 4 A. It was going to be right at the end, at  
 5 this little deal here.  
 6 Q. What was the substance of that  
 7 conversation?  
 8 A. I told them that the roof was bulky.  
 9 Q. And you're talking about over the  
 10 master bathroom?  
 11 A. Yeah. I said the roof -- actually,  
 12 around the whole thing.  
 13 Q. It's wavy?  
 14 A. When the roof comes down, here's the  
 15 outside wall, it bows -- it turns like  
 16 this (indicating), so water could stand  
 17 right there. No doubt in my mind.  
 18 Q. Okay. So you think it's kind of like a  
 19 valley?  
 20 A. It's got a valley up there. See, I  
 21 knew that and they kept saying it did  
 22 not. And I had a fellow with Jones  
 23 Brothers Roofing Company, I forgot his

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1 name and he come and looked at it and  
 2 he said it needed to be fixed, that  
 3 it -- that the shingles was no problem,  
 4 but the wood, it looked like the wood  
 5 had sagged. He didn't know if it was  
 6 from the moving of the thing or not.  
 7 Q. Can you be a little bit more specific  
 8 about where you think the roof is  
 9 sagged?  
 10 A. All the way around across this side --  
 11 front and back.  
 12 Q. So along the whole front and the whole  
 13 back?  
 14 A. Yes, sir.  
 15 Q. And where do you think that has caused  
 16 roof leaks into your house?  
 17 A. Well, I don't know that it has caused  
 18 roof leaks. Everybody that has seen  
 19 has said there was no roof leaks. And  
 20 I haven't seen any. I just was kind of  
 21 assuming.  
 22 Q. All right. Now, you said you had --  
 23 let's start with this sink in here in

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1 Q. Okay.  
 2 A. They feed together. It broke. And  
 3 that might not be what caused it. But  
 4 it's just at that particular time --  
 5 Q. Water went everywhere?  
 6 A. As soon as it happened, she heard it,  
 7 she opened the sink, water was going --  
 8 running down on her stuff. I cut the  
 9 valve off and then I had to put a new  
 10 faucet on. I thought it was the water  
 11 line.  
 12 Q. Okay.  
 13 A. Nothing ever flooded there because that  
 14 water, we got that right up.  
 15 Q. Because when we pulled your siding off,  
 16 we saw evidence of a water stain like  
 17 there had been some water damage there  
 18 like a line that went all the way  
 19 across.  
 20 A. But this sink here has never flooded  
 21 over. And like I said, that -- we had  
 22 that -- this one did.  
 23 Q. Now we're talking about the second

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1 the master bathroom. And we're  
 2 pointing now to the sink on the outside  
 3 wall, the long wall, next to that  
 4 window there. Do you see that?  
 5 A. Yes, sir.  
 6 Q. Now, you said you had a problem with  
 7 that sink. Tell me how that problem  
 8 arose and what you did.  
 9 A. Water line broke under the sink. I  
 10 take that back. The pipe coming out of  
 11 the bottom of the faucet, it cracked.  
 12 Q. So this is the exit pipe?  
 13 A. It's the water line. When it comes  
 14 into the bottom of the faucet.  
 15 Q. Okay.  
 16 A. My wife turned it on to brush her  
 17 teeth, and when she cut it off, it  
 18 popped.  
 19 Q. Hot -- well, cold water on?  
 20 A. Hot water side, I think.  
 21 Q. I hope she wasn't brushing her teeth  
 22 with the hot water.  
 23 A. No. Our faucet feeds together.

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1 bathroom?  
 2 A. Yeah, the second bathroom.  
 3 Q. What happened there?  
 4 A. It was at night again one night and I  
 5 woke up. My wife said, I hear  
 6 something, and she woke me up. And  
 7 this one had overflowed. This one, the  
 8 inside broke in the faucet and it was  
 9 running -- it was running so fast the  
 10 drain couldn't catch it and it had done  
 11 run over and come in to the floor. And  
 12 it had the floor wet right here  
 13 (indicating) by the time I run in there  
 14 and I capped it off. Cut the valves  
 15 off, you know, then it drained down.  
 16 Q. So had someone been using this sink or  
 17 it just popped off?  
 18 A. It just popped.  
 19 Q. Was it in the wintertime? Was it like  
 20 a frozen pipe thing?  
 21 A. Oh, no. It was the faucet again.  
 22 Q. Bad faucet?  
 23 A. It had broke right there on the faucet,

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1       got insurance through Corky and them,  
 2       American Home, and I filed with them.  
 3       I said, If they didn't get the damage,  
 4       the mold damage --  
 5       Q. You filed an insurance claim?  
 6       A. If they would fix the leak, fix the  
 7       leak in the roof, if they would fix  
 8       that or whatever, and they denied it.  
 9       They sent me a letter. I've got that  
 10      letter saying that it was a  
 11      manufacturer's defect. They sent it.  
 12      MR. SIMPSON: Can I get that  
 13      letter?  
 14      MR. GOULD: Yeah.  
 15      Q. Where is that letter?  
 16      A. I've got it. I'll get it to him.  
 17      Q. When did you notify -- was it American  
 18      Bankers? Is that the --  
 19      A. American Family Insurance. And they  
 20      sent an adjustor out and he --  
 21      Q. American Modern?  
 22      A. American Modern. And he sent some  
 23      other folks out.

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1       four spots, because he -- when I  
 2       called, I told him what it was. He  
 3       said, We need to look at this, then.  
 4       And then I -- I was under the  
 5       impression that the roof --  
 6       Q. You told him the roof was bad?  
 7       A. I said, The roof has -- I know the roof  
 8       don't look good. I didn't know if it  
 9       was the problem or not. And then they  
 10      sent -- they sent folks out to look at  
 11      it and then I didn't hear nothing back  
 12      from them. Then they sent me a letter,  
 13      a certified letter, saying --  
 14      Q. Did they send someone out there?  
 15      A. Yeah.  
 16      Q. And what did that person -- how many  
 17      people went out there?  
 18      A. I wasn't there. The adjustor come out  
 19      and looked around. He said, I'm going  
 20      to send somebody and I'll get back with  
 21      you. And he sent somebody, but I don't  
 22      know who it was because they come  
 23      through my yard. It had been raining

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1       Q. When was that, after you signed up for  
 2       the lawsuit?  
 3       A. It was right before.  
 4       Q. Right before?  
 5       A. Because I was -- if I could get the  
 6       insurance to take care of it, I was  
 7       just going to say, Don't worry about  
 8       it. Let's just get it fixed and get on  
 9       with it.  
 10      Q. I want to go back to the floor plan  
 11      here.  
 12      A. Okay.  
 13      Q. What did you tell American Modern  
 14      Insurance Company was wrong that you  
 15      wanted to file a claim about?  
 16      A. I showed them about the soft -- the  
 17      soft in the walls and the mold in the  
 18      walls.  
 19      Q. Okay. You're pointing to both arrows  
 20      in the master bath?  
 21      A. Yeah.  
 22      Q. You showed them both of those areas?  
 23      A. Yeah. I actually -- there was three or

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1       and they pulled right in the middle of  
 2       my yard and ruined my yard and I called  
 3       them on that.  
 4       Q. You were mad?  
 5       A. Yes. I just put sod down and it rained  
 6       and instead of going around the  
 7       driveway they went right across the  
 8       yard.  
 9       Q. Oh, man.  
 10      A. So the -- so I knew somebody was there.  
 11      And then they sent me a certified  
 12      letter saying they would not do it  
 13      because that was the manufacturer's  
 14      responsibility because it's faulty  
 15      work. It's a pretty good little  
 16      letter. I called up and I raised Cain  
 17      about that.  
 18      Q. And what did the letter say, was it a  
 19      roof leak or was it --  
 20      A. It just -- all it said was could not  
 21      find a -- couldn't find a visible  
 22      damage from -- I guess what you call it  
 23      weather-related stuff, whatever, so it